

<b>Notice of Allowability</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/886,171	ZARLING ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	David A. Lambertson	1636	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the response filed 30 September 2004.
  2. ☒ The allowed claim(s) is/are 3,4,10,11,14,16,17,29 and 36-47.
  3. ☒ The drawings filed on 20 June 2001 and 05 August 2003 are accepted by the Examiner.
  4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
    - a) ☐ All    b) ☐ Some\*    c) ☐ None    of the:
    1. ☐ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).
- \* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.  
**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
  6. ☐ CORRECTED DRAWINGS ( as "replacement sheets") must be submitted.
    - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948) attached
      - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
    - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).**
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

- |   |   |
|---|---|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892)  | 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)                       |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                | 6. <input checked="" type="checkbox"/> Interview Summary (PTO-413),<br>Paper No./Mail Date _____. |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),<br>Paper No./Mail Date _____ | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment                               |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit<br>of Biological Material          | 8. <input type="checkbox"/> Examiner's Statement of Reasons for Allowance                         |
|   | 9. <input type="checkbox"/> Other _____.  |

### EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Daniel M. Becker on December 7, 2004.

The application has been amended as follows:

In the specification:

On page 3, line 6, please update the status of 09/181027 as "now abandoned."

On page 15, line 31, please update the status of U.S.S.N. 07/910,791 as "now abandoned."

On page 23, lines 13-14, please update the status of U.S.S.N. 07/910,791 as "now abandoned;" please update the status of U.S.S.N. 07/755,462 as "now U.S. Patent No. 5,273,881;" and please update the status of U.S.S.N. 07/520,321 as "now U.S. Patent No. 5,223,414."

In the claims, please make the following amendments:

Claim 10. A method according to ~~any one of claim~~[[s]] 3 ~~or~~ 4, further comprising introducing the library of altered target nucleic acids resulting from the final iteration of steps (a) - (c) into cells to form a cellular library comprising altered nucleic acid sequences.

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Claim 29. A method according to ~~either of claim~~<sup>claim</sup> 3 ~~or~~ 4, further comprising contacting said first recombination intermediate with a recombination proficient cell.

Please add the following new claims:

Claim 42 (new). A method according claim 4, further comprising introducing the library of altered target nucleic acids resulting from the final iteration of steps (a) - (c) into cells to form a cellular library comprising altered nucleic acid sequences.

Claim 43 (new). A method according to claim 42 further comprising expressing said cellular library of altered target nucleic acids to generate a library of variant polypeptides.

Claim 44 (new). A method according to claim 43 further comprising secreting said cellular library of variant polypeptides.

Claim 45 (new). A method according to either of claim 4, further comprising contacting said first recombination intermediate with a recombination proficient cell.

Claim 46 (new). A method according to claim 45 wherein said cell is eukaryotic.

Claim 47 (new). A method according to claim 45 wherein said cell is procaryotic.


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Any inquiry concerning this communication or earlier communications from the examiner should be directed to David A. Lambertson whose telephone number is (571) 272-0771. The examiner can normally be reached on 6:30am to 4pm, Mon.-Fri., first Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Remy Yucel, Ph.D. can be reached on (571) 272-0781. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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AU 1636



JAMES KETTER  
PRIMARY EXAMINER